

KEITH FREITAS
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STATE OF CALIFORNIA
State Energy Resources Conservation
And Development Commission

In the matter of

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) Docket No.01-AFC-22
Pre Hearing Conference
Statement of Keith Freitas

Application for certification of a power plant By the San Joaquin Valley Energy Center
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On or about January 10, 2002 I received a notice of a pre-hearing conference by the committee assigned to this certification proceeding. I have been advised to file this statement by Wednesday January 29, before 1:00 p.m. By delivering notice to the siting committee held at the GURU Hall in the City of San Joaquin California, and by e-mail to the Public Advisors office which I have done.

At the pre-hearing conference the committee chairperson / member Major Williams floored the request for my petition to be accepted as an Intervenor, and no objections were made. I was granted the right to sit in on this meeting of January 29, 2003 as an Intervenor, which I did. My intent to participate in this process as an Intervenor is to clarify the issues to be heard in formal evidentiary hearings.

This party comes forth here and now as an Intervenor with the following statement:

OPENING COMMENTS

We are adjacent property owners to the proposed site location of the power plant. We are concerned that the approval process under our current information and belief may not address all necessary issues and or matters affecting the public and community at large, namely health and safety issues, water, flooding, and waste handling. We come now before this committee to seek a fuller understanding not only of the process but of the actual rules of engagement in dealing with the process.

We apologize before hand for what might be perceived to be a lack of respect for the process, but which is only a lack of experience and/or resources. As we are finding ourselves financially handicapped we feel that the community of San Joaquin is also severally handicapped financially in its ability to participate in this process because of lack of funds and resources. In my opinion the process could seek a fairer environment in which to continue if it would approve State Funds to interested and bonifide parties with legitimate concerns for equal access to the same resources applicant has at its disposal, or require the applicant to provide Equal access to those most affected by this approval process. An example would be that we find we are unable to retain competent legal counsel to represent our interests, bring forth qualified and paid expert testimony, and in general make a more impacting contribution to the process.

TOPIC AREAS THAT ARE COMPLETE AND READY TO PROCEED TO EVIDENTIARY HEARINGS, BUT ARE NOT UNCONTESTED

1. Soil and Water

- 25, 50, and 100 year flood events impacting the site location (Yuba Drainage Basin)
- Waste management (Human Sludge)

2. Public Health and Safety

- Terrorist attack preparedness (Homeland Security)
- Impacts to ground water supply

3. Compliance

- Infrastructure maintenance (Impacts to existing resources)
- Exit Strategy
- CEQA

4. Noise

5. Air Quality

6. Visual Impact

PROPOSED, EXPECTED AND ANTICIPATED WITNESSES:

1. Rick Arndt with the BOR (State of California)

A. Rick will be called upon to testify on floodwater impacts in the Yuba Drainage Basin, as those floodwaters might impact the City of San Joaquin.

2. Thomas Birmingham (General Counsel and Manager Westlands Water District).

A. Mr. Birmingham will be called upon to testify to the legality of removing ground water from on water district to another.

3. David Navoretti (Madera Compliance Officer ?)

A. David will be called upon to testify to the impacts of the weight from the plant on the clay soils located at the site, and the City building requirements necessary to construct the plant on floating foundations, or over subsurface tile.

4. Mike Brooks (Maintenance Dept. City of San Joaquin)

A. Mike will be called upon to testify to the flooding that occurred from Storm and Farmer “runoff off” of the subject building site into the City streets and into the City holding ponds

5. Randy Aopdaca (Resident in close proximity to the proposed project site.)

A. Randy will testify to impact of the proposed project's threat to his health and welfare.

6. Keith Freitas (Property Owner/Farmer)

A. I will call upon myself to provide personal prima fascia evidence as to the potential impacts to the proposed building site which could result from major storm events, along with introducing written evidence to support the testimony. I will also supply first hand prima fascia evidence through my testimony as to the impact of 1998 floods which entered the City of San Joaquin via the runoff from the proposed plant site location.

The witness list above is who the Intervenor shall call, however this list may change due to the Intervenors need to confirm witness availability and herein reserves the right to alter, amend, add, subtract, and/or modify the witness list as circumstances dictate witness availability. The Intervenor also reserves the right to modify witness schedules as the subject matter which the witnesses would be called to testify on has already been adequately addressed by the Committee, or Staff in which case, no witnesses will be called. Each witness should take no longer that 15 minutes under examination and no more than 10 minutes under cross-examination.

CROSS-EXAMINATION OF STAFF AND APPLICANT'S WITNESSES

1. Soil and Water

- Cross examination of staff witnesses whom I believe to be are, Crea, Moore, Thurber, Patterson and Kesler covering 25, 50, and 100 year flood events impacting the site location (Yuba Drainage Basin)
- Waste management (Human Sludge) cross-examination of staff's witness who I believe to be is Alvin Greenberg. (Approximate time 30 minutes.)

2. Public Health and Safety

- Terrorist attack preparedness (Homeland Security) Cross-examination of staff witness who I believe to be is David Young (Approximate time 20 minutes.)

- Impacts to ground water supply Cross-examination of staff witness who I believe to be is Alvin Greenberg. (Approximate time 20 minutes.)

3. Compliance

- Infrastructure maintenance (Impacts to existing resources)
- Exit Strategy
- CEQA Cross-examination of staff witness whom I believe to be is Lance Shaw (Approximate time 20 minutes.)

4. Noise

Cross-examination of applicant's and staff witnesses (Approximate time 15 minutes.)

5. Air Quality

Cross-examination of applicant's and staff witnesses (Approximate time 15 minutes.)

6. Visual Impact

Cross-examination of applicant's and staff witnesses (Approximate time 15 minutes.)

BIOLOGICAL RESOURCES:

There still remains ongoing hearings into environmental subjects as herein brought forth in this statement, and the Intervenor herein reserves the right to serve notice upon the committee should the Intervenor discover new and relevant findings of **significant impact**¹ to the eco system or to the public health and welfare. Intervenor also preserves his right to present the non-restricted full presentation of views on any issue, which is not considered “exparte communication”.

¹ Something is discovered that would change the facts and/or legal determinations used to make the original findings.

SCHEDULING CONFLICTS:

The Intervenor may from time to time develop scheduling conflicts precluding the party to appear in person, and reserves the right to appear by telephone conference call.

PROPOSED EXHIBIT LIST:

The Intervenor proposes to include exhibits with witness pre-filed testimony, but preserves his right to combine exhibits under any one single witness.

Dated: January 27, 2003

Fresno, California

By: _____
Keith A. Freitas, Intervenor